

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAI DAVID ORTIZ, also known as
JAYSON TORRES,

Petitioner,
-against-

SUPERINTENDENT WARREN BARKLEY,

Respondent.

USDC SDNY
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ELECTRONICALLY FILED
DOC #: 3/26/08
DATE FILED: 3/26/08

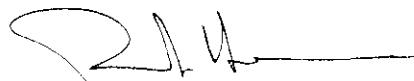
05 Civ. 5897 (RJH)

ORDER

Before the Court is Jai David Ortiz's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 2001 conviction in New York state court for robbery and criminal possession of a weapon. On August 18, 2006 Magistrate Judge Douglas F. Eaton issued a Report and Recommendation ("Report") recommending that Ortiz's petition be denied. Petitioner's objection to the report requested a stay to allow petitioner to exhaust his post-release supervision claim in state court. This Court granted a stay by Order dated June 12, 2007 [23], and thereafter appointed petitioner counsel to assist him in determining whether to exhaust the post-release supervision claim [24, 25]. After consulting with appointed counsel, petitioner indicated that he did not wish to exhaust this claim and he requested that this Court rule on the pending petition. The Court has reviewed the Report, petitioner's objections, and his various letters to the Court. The Court denies the petition, adopts the Report, and determines that a certificate of appealability should not issue. The Court will issue a full opinion setting forth its reasoning shortly.

SO ORDERED.

Dated: New York, New York
March 24, 2008



Richard J. Holwell
United States District Judge